HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 776 OF 2007

DATED: 13.2.2007

Between:

Sidhu Nookaraju

.Petitioner

and

The District Collector, Kakinada and others

...Respondents

THE HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.776 OF 2007

ORAL ORDER:

The petitioner's land in an extent of Ac.2.50 cents in Sy.No.26/7A of Navara village, Samalkot Mandal, East Godavari District was proposed for acquisition. The notification under Sec.4(1) of the Land Acquisition Act,1894 (for short "the Act") was issued on 03-06-2006. The petitioner was issued a notice soliciting his objections, under Sec.5-A of the Act. The petitioner lodged his objections and the 1st respondent has himself by an order dated.23-12-2006 considered the objections lodged by the petitioner in seriatim and rejected them. The decision of the 1st respondent in this behalf was also communicated to the petitioner. Declaration under Sec.6 of the Act has also been issued on 28-12-2006.

The petitioner assails the acquisition process, in particular, the declaration issued under Sec.6 substantively on the ground that the petitioner's objections were not satisfactory dealt with by the 1st respondent while rejecting his objections. In particular the petitioner points out he had petitioner stated in his objections that there is available Government land, which was surrendered to the State under the Land Ceiling Legislation, in Sy.No.2/2 of Navara village. Since it is surrendered land and vests with the Government, no acquisition is needed and the land is also abutting the village on the southern

side and is adjacent to the road; that the available Government land is more suitable for construction of houses and therefore the petitioner's land need not be acquired.

In dealing with the objections, the 1st respondent recorded that the Revenue Divisional Officer had inspected the land on 01.05.2006 and the petitioner's land was found to be suitable, no other land is available in the village and the land of the petitioner is adjacent to the existing housing colony.

The Land Acquisition Act,1894 is a legislative mechanism which effectuates the State's power of *eminent domain,* which is in the nature of compulsory purchase of land. The petitioner is entitled to a bountiful compensation for the land acquired including market value, additional market value and solatium. The acquisition must also be and is in the instant case, for public interest, namely provision of house sites for the weaker sections of society.

The opportunity provided to a person whose land is proposed for acquisition subserves a plurality of legislative purposes. At one level, it affords an opportunity to the person whose property is under acquisition to point out to the State alternatives to the acquisition. At another level, it serves to sensitise the State to alternative opportunities available to it before expending from the public exchequer. Both these legislative purposes are met when an enquiry is conducted, the competent authority is sensitised to the objections and takes a conscious and considered decision on the objections.

In any event, the Sec.5-A forum does not constitute the landowner a co-decision maker in the acquisition process. The choice and policy decision to acquire the land and the identity of the land acquired is still normatively and substantially with the State domain and its competent authorities. In this view of the matter, the order of the 1st respondent rejecting the objections cannot be said to be laconic or perverse. It is a legitimate decision within the spectrum of authority available to the 1st respondent-competent authority.

On the aforesaid analysis, no infirmity is discernable in the order of the 1st respondent rejecting the objections/technical objections. There are no merits in the writ petition. The writ petition is accordingly dismissed. In the circumstances there shall be no order as to costs.

GODA RAGHURAM,J

13th FEBRUARY,2007
*TSNR